



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

MAP/145507

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 26, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on January 08, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued petitioner's Medicaid Purchase Program (MAPP) benefits effective October 1, 2012.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Belinda Bridges  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. In 2010 the agency incorrectly granted benefits to petitioner for the MAPP program.
3. Petitioner has not been found disabled by the Disability Determination Bureau (DDB) or the Social Security Administration.

4. In August 2012, the agency discovered the error in issuing the MAPP benefits to petitioner.
5. On August 20, 2012 the agency issued a notice of decision to petitioner stating that effective October 1, 2012 her MAPP benefits would end because she did not meet the program requirements.

### **DISCUSSION**

A person must be disabled to be eligible for Medicaid Purchase Program (MAPP) benefits. Wis. Stat. §49.472. The Department's Disability Determination Bureau (DDB) makes the disability determination for MAPP purposes. Because petitioner has not been found disabled by the DDB, I must conclude that petitioner is not eligible for MAPP as she is not considered disabled for that program. I cannot answer why she was found eligible for the program in the first place.

There is evidence in the record that a disability application was filed with the DDB for the petitioner and that she was awaiting that decision. If the petitioner is found disabled by the DDB or the Social Security Administration in the future, she would then be disabled for MAPP purposes as well. In such an event, she could contact the agency to inform them of her newly approved disability status and reapply for the program. She would then need to ensure she meets all other nonfinancial and financial tests to be eligible for MAPP – Disability.

It is understood that it may seem unfair that the agency opened the benefits for her and have now discontinued them; however, the agency has now corrected the benefits according to law and policy. And while petitioner may find this decision unfair, it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. As such, I must uphold the discontinuance.

### **CONCLUSIONS OF LAW**

The agency correctly discontinued petitioner's MAPP benefits effective October 1, 2012 because she has not been found disabled by the DDB or the Social Security Administration.

**THEREFORE, it is**

**ORDERED**

The petition for review herein is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

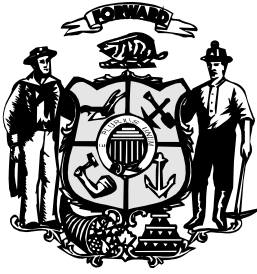
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 31st day of January, 2013

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 31, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability